

Case 1:08-cv-10223-NRB Document 46 Filed 05/10/11 Page 1 of 5

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

Document #

46

USA

-v-

KARRON

U.S.C.A. #

U.S.D.C. #

JUDGE :

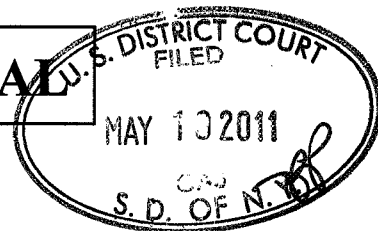
DATE :

08-cv-10223

NRB

MAY 10, 2011

INDEX TO THE RECORD ON APPEAL



PREPARED BY (NAME) :

FIRM :

ADDRESS :

PHONE NO. :

Tommy
X0636

DISTRICT COURT DOCKET ENTRIES

DOCUMENT DESCRIPTION

DOC. #

CLERK'S CERTIFICATE

SEE ATTACHED LIST OF NUMBERED DOCUMENTS

Balance of file is Electronic

(☒) ORIGINAL RECORD

(4 VOL)

The record in the above entitled case was indexed to the U.S.C.A
for the Second Circuit on the 10th Day of May, 2011.

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

USA
-v-
KARLON

U.S.C.A. # _____

U.S.D.C. # 08-cv-10223JUDGE : NRBDATE : MAY 10, 2011

CLERK'S CERTIFICATE

I, Ruby J. Krajick, Clerk of the Court of the United States District Court for the Southern District of New York, do hereby certify that the certified copy of the docket entries and the original filed papers numbered ____ through ____, inclusive, constitutes the Original Record On Appeal in the above entitled proceedings except for the following missing documents:

Date FiledDocument Description

Balance of file is electronic

In Testimony Whereof, I have caused the seal of said Court to be hereunto affixed, at the City of New York, this ____ Day of _____, In this year of our Lord, Two Thousand and Eleven, and the Independence of the United States this 235TH year.

Ruby J. Krajick, Clerk

By _____

Deputy Clerk

CLOSED, APPEAL, ECF

**U.S. District Court
Southern District of New York (Foley Square)
CIVIL DOCKET FOR CASE #: 1:08-cv-10223-NRB**

United States of America v. Karron
Assigned to: Judge Naomi Reice Buchwald
Case in other court: US Court of Appeals, Second Circuit, 09-02530-cv
Cause: 28:1391 Personal Injury

Date Filed: 11/24/2008
Date Terminated: 04/13/2011
Jury Demand: None
Nature of Suit: 890 Other Statutory Actions
Jurisdiction: Federal Question

Date Filed	#	Docket Text
11/24/2008	<u>1</u>	COMPLAINT against Daniel B. Karron. Document filed by United States of America.(mbe) (Entered: 11/29/2008)
11/24/2008		SUMMONS ISSUED as to Daniel B. Karron. (mbe) (Entered: 11/29/2008)
11/24/2008		Magistrate Judge Douglas F. Eaton is so designated. (mbe) (Entered: 11/29/2008)
11/24/2008		Case Designated ECF. (mbe) (Entered: 11/29/2008)
12/08/2008	<u>2</u>	AFFIDAVIT OF SERVICE of Summons and Complaint. Daniel B. Karron served on 12/3/2008, answer due 12/23/2008. Service was accepted by Daniel B. Karron. Document filed by United States of America. (Schwartz, Matthew) (Entered: 12/08/2008)
12/30/2008	<u>3</u>	STIPULATION AND ORDER; that Karron's time to answer or otherwise respond to the complaint shall be extended to 1/23/2009. SO ORDERED. (Signed by Judge Naomi Reice Buchwald on 12/29/2008) (tve) (Entered: 12/30/2008)
12/30/2008		Set/Reset Deadlines: Daniel B. Karron answer due 1/23/2009. (tve) (Entered: 02/24/2009)
02/02/2009	<u>4</u>	ANSWER to Complaint. Document filed by Daniel B. Karron.(jmi) (Entered: 03/04/2009)
03/05/2009	<u>5</u>	ORDER: that plaintiff's motion for a default judgment is denied. Defendant shall serve all correspondence with the Court and pleading on plaintiff. Plaintiff shall respond to defendant's request to stay proceedings pending her criminal appeal by 3/11/2009. (Signed by Judge Naomi Reice Buchwald on 3/4/2009) Copies Mailed By Chambers.(tve) (Entered: 03/05/2009)
03/17/2009	<u>6</u>	ORDER: that the following briefing schedule for summary judgment is adopted: Government to move on or before April 17, 2009; Karron to oppose on or before June 5, 2009; and Government to reply on or before June 19, 2009. SO ORDERED. (Signed by Judge Naomi Reice Buchwald on 3/16/2009) Copies Mailed By Chambers. (tve) Modified on 4/8/2009 (tve). (Entered: 03/17/2009)
04/06/2009	<u>7</u>	MOTION for Reconsideration for a stay of the above cited proceedings. Document filed by Daniel B. Karron.(dj) (Entered: 04/10/2009)
04/17/2009	<u>10</u>	NOTICE OF INTERLOCUTORY APPEAL from <u>6</u> Order, Set Deadlines. Document filed by Daniel B. Karron. Copies mailed to attorney(s) of record: A.U.S.A. (tp) (Entered: 06/12/2009)
04/17/2009		Appeal Remark as to <u>10</u> Notice of Interlocutory Appeal filed by Daniel B. Karron. \$455.00 APPEAL FEE DUE. IFP DENIED 5/15/09. (tp) (Entered: 06/12/2009)
05/18/2009	<u>8</u>	MEMORANDUM AND ORDER: Insofar as defendant has endeavored to file a motion for reconsideration of our March 17, 2009 Order, entry #7 on the docket sheet, such motion is denied. (Signed by Judge Naomi Reice Buchwald on 5/15/2009) Copies Mailed By Chambers. (jfe) (Entered: 05/18/2009)
06/05/2009	<u>9</u>	MOTION for the Court to Request Counsel (Version 2) Document filed by Daniel B. Karron.(dj) (Entered: 06/10/2009)
06/12/2009		Transmission of Notice of Appeal and Certified Copy of Docket Sheet to US Court of Appeals re: <u>10</u> Notice of Interlocutory Appeal. (tp) (Entered: 06/12/2009)
06/12/2009		Transmission of Notice of Appeal to the District Judge re: <u>10</u> Notice of Interlocutory Appeal. (tp) (Entered: 06/12/2009)
06/12/2009	<u>11</u>	Appeal Record Sent to USCA (Index). Notice that the Original index to the record on Appeal for <u>10</u> Notice of Interlocutory Appeal filed by Daniel B. Karron 3 Copies of the index, Certified Clerk Certificate and Certified Docket Sheet were transmitted to the U.S. Court of Appeals. (tp).(nd). (Entered: 06/12/2009)
06/12/2009		Appeal Record Sent to USCA (File). Indexed record on Appeal Files for <u>10</u> Notice of Interlocutory Appeal filed by Daniel B. Karron were transmitted to the U.S. Court of Appeals. (tp) (Entered: 06/12/2009)
06/17/2009		USCA Case Number 09-2530-cv from the US Court of Appeals, Second Circuit assigned to <u>10</u> Notice of Interlocutory Appeal filed by Daniel B. Karron. (nd) (Entered: 06/17/2009)
07/02/2009	<u>12</u>	First Supplemental ROA Sent to USCA (Index). Notice that the Supplemental Index to the record on Appeal for <u>10</u> Notice of Interlocutory Appeal filed by Daniel B. Karron USCA Case Number 09-2530-cv, 3 Copies of the index, Certified Supplemental Clerk Certificate and Certified Docket Sheet were transmitted to the U.S. Court of Appeals. (tp) (nd). (Entered: 07/02/2009)
07/02/2009		First Supplemental ROA Sent to USCA (File). Supplemental Indexed record on Appeal Files for <u>10</u> Notice of Interlocutory Appeal filed by Daniel B. Karron were transmitted to the U.S. Court of Appeals. (tp) (Entered: 07/02/2009)
10/21/2009	<u>13</u>	MANDATE of USCA (Certified Copy) as to <u>10</u> Notice of Interlocutory Appeal filed by Daniel B. Karron USCA Case Number 09-2530-cv. The Government moves to dismiss this appeal for lack of jurisdiction, or in the alternative for summary affirmance. Appellant, pro se moves for a stay pending appeal, leave to proceed in forma pauperis, and appointment of counsel. Upon due consideration, it is hereby ORDERED that the Government's motion is GRANTED and the appeal is DISMISSED for lack of appellate jurisdiction. The order appeal from is not an appealable interlocutory order under 28 U.S.C. & 1292(a)(1). Furthermore, the collateral order doctrine does not apply. See Gulfstream Aerospace Corp. v. Mayacamas Corp., 485 U.S. 271, 276 (1988). It is further ORDERED that Appellant's motions are DENIED as moot. Catherine O'Hagan Wolfe, Clerk USCA. Issued As Mandate: 10/20/2009. (nd) (Entered: 10/21/2009)
10/21/2009		Transmission of USCA Mandate/Order to the District Judge re: <u>13</u> USCA Mandate.(nd) (Entered: 10/21/2009)
12/02/2009	<u>14</u>	ORDER: Based upon the record submitted to date, I cannot conclude that defendant has demonstrated a likelihood of success on the merits that would support the appointment of counsel. Thus, the application is denied without prejudice to reconsideration at a later time should future developments warrant a different result. So Ordered. (Signed by Judge Naomi Reice Buchwald on 12/9/09) (js) (Entered: 12/02/2009)

12/02/2009	<u>15</u>	ENDORSED LETTER: addressed to Judge Naomi Reice Buchwald from Preet Bharara dated 11/12/09 re: Counsel for plaintiff requests that this case be converted to ECF. ENDORSEMENT: Application to place this case on the ECF system is granted. So Ordered. (Signed by Judge Naomi Reice Buchwald on 12/2/09) (js) (Entered: 12/02/2009)
12/02/2009		Case Designated ECF. (js) (Entered: 12/02/2009)
12/04/2009		Appeal Record Returned. Indexed record on Appeal Files for Appeal Record Sent to USCA - File USCA Case Number 09-2530-cv, returned from the U.S. Court of Appeals. (nd) (Entered: 01/12/2010)
12/04/2009		First Supplemental ROA Returned. Supplemental Indexed record on Appeal Files for <u>10</u> Notice of Interlocutory Appeal filed by Daniel B. Karron USCA Case Number 09-2530-cv, returned from the U.S. Court of Appeals. (nd) (Entered: 01/15/2010)
03/23/2010	<u>16</u>	ENDORSED LETTER addressed to Judge Naomi Reice Buchwald from Michael J. Byars dated 3/19/2010 re: Counsel respectfully request that this Office be permitted to provide a further update to the Court one month from today's date on or before 4/19/2010. ENDORSEMENT: This is the last extension. Either the parties resolve the case by settlement or the government should make its summary judgment motion. So Ordered. (Signed by Judge Naomi Reice Buchwald on 3/23/2010) (jfe) Modified on 3/30/2010 (jfe). (Entered: 03/23/2010)
05/14/2010		Minute Entry for proceedings held before Judge Naomi Reice Buchwald: Conference held on 5/14/2010. (mro) (Entered: 05/24/2010)
06/18/2010	<u>17</u>	MOTION for Summary Judgment. Document filed by United States of America. Responses due by 7/7/2010(Byars, Michael) (Entered: 06/18/2010)
06/18/2010	<u>18</u>	MEMORANDUM OF LAW in Support re: <u>17</u> MOTION for Summary Judgment.. Document filed by United States of America. (Byars, Michael) (Entered: 06/18/2010)
06/18/2010	<u>19</u>	DECLARATION of Melinda S. Chukran in Support re: <u>17</u> MOTION for Summary Judgment.. Document filed by United States of America. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D)(Byars, Michael) (Entered: 06/18/2010)
06/18/2010	<u>20</u>	DECLARATION of Michael J. Byars in Support re: <u>17</u> MOTION for Summary Judgment.. Document filed by United States of America. (Attachments: # <u>1</u> Exhibit GX2, # <u>2</u> Exhibit GX10, # <u>3</u> Exhibit GX10A, # <u>4</u> Exhibit GX11, # <u>5</u> Exhibit GX12, # <u>6</u> Exhibit GX13, # <u>7</u> Exhibit GX14, # <u>8</u> Exhibit GX21, # <u>9</u> Exhibit GX26, # <u>10</u> Exhibit GX40, # <u>11</u> Exhibit GX40A, # <u>12</u> Exhibit GX41, # <u>13</u> Exhibit GX41A, # <u>14</u> Exhibit GX42, # <u>15</u> Exhibit 42A, # <u>16</u> Exhibit GX43, # <u>17</u> Exhibit GX43A, # <u>18</u> Exhibit GX44, # <u>19</u> Exhibit GX45, # <u>20</u> Exhibit GX46, # <u>21</u> Exhibit GX62, # <u>22</u> Exhibit GX114, # <u>23</u> Exhibit Trial Transcript (excerpts), # <u>24</u> Exhibit Sentencing Transcript)(Byars, Michael) (Entered: 06/18/2010)
06/18/2010	<u>21</u>	RULE 56.1 STATEMENT. Document filed by United States of America. (Byars, Michael) (Entered: 06/18/2010)
06/18/2010	<u>22</u>	NOTICE of To Pro Se Litigant Opposing A Motion For Summary Judgment re: <u>17</u> MOTION for Summary Judgment.. Document filed by United States of America. (Attachments: # <u>1</u> FRCP 56 and LR 56.1)(Byars, Michael) (Entered: 06/18/2010)
06/18/2010	<u>23</u>	CERTIFICATE OF SERVICE of Notice of Motion, Memorandum of Law, Rule 56.1 Statement, Declaration of Melinda S. Chukran, Declaration of Michael J. Byars, Local Rule 56.2 Notice, unpublished decisions (7) served on Daniel B. Karron on 6/18/2010. Service was made by Mail. Document filed by United States of America. (Byars, Michael) (Entered: 06/18/2010)
06/24/2010	<u>24</u>	DECLARATION of Michael J. Byars (amended) in Support re: <u>17</u> MOTION for Summary Judgment.. Document filed by United States of America. (Byars, Michael) (Entered: 06/24/2010)
06/29/2010	<u>25</u>	ENDORSED LETTER addressed to Judge Naomi Reice Buchwald from Michael Byars dated 6/24/10 re: Request that the time to file its reply be extended from 7/16 to 7/28/10. ENDORSEMENT: So Ordered. Set Deadlines/Hearing as to <u>17</u> MOTION for Summary Judgment. Response due 7/19/10. (Reply due by 7/28/2010.) (Signed by Judge Naomi Reice Buchwald on 6/28/10) (cd) Modified on 7/12/2010 (cd). (Entered: 06/29/2010)
06/29/2010		Set/Reset Deadlines as to <u>17</u> MOTION for Summary Judgment. Response due by 7/19/2010 (cd) (Entered: 07/12/2010)
07/16/2010	<u>26</u>	ENDORSED LETTER addressed to Judge Naomi Buchwald from Michael J. Byars dated 7/14/10 re: Request to enlarge the briefing schedule on the Government's motion for summary judgment. ENDORSEMENT: While the Court will grant these extension requests, it should be clear that no further extensions will be granted. Also, it should be clear that the Court requires complete copies of the papers in hard copy to be delivered to chambers. Set Deadlines/Hearing as to <u>17</u> MOTION for Summary Judgment. (Response due by 7/26/2010. Reply due by 8/4/2010.) (Signed by Judge Naomi Reice Buchwald on 7/16/10) (cd) (Entered: 07/16/2010)
07/30/2010	<u>27</u>	MEMORANDUM AND ORDER. On July 27, 2010, the Court received the defendant's opposition to the plaintiff's motion for summary judgment. The opposition comprises over one thousand pages, including a 91- page memorandum of law and a Rule 56.1 counterstatement that is not fully supported by admissible evidence. The filing is hereby rejected, and the Clerk of the Court is directed to strike the filing from the docket, as it fails to comply with the Individual Practices of the undersigned and the Local Rules of this Court. The fact that a litigant in this Court is proceeding pro se does not exempt that individual from the practices and rules that ordinarily apply. Cf. Agiwal v. Mid Island Mortg. Corp., 553 F.3d 298 (2d Cir. 2009). The defendant may file and serve a revised submission -- compliant with the Court's rules -- no later than August 23, 2010. The plaintiff's reply, if any, shall be due August 30, 2010. (Signed by Judge Naomi Reice Buchwald on 7/30/10; Copies mailed by Chambers. (dj) Modified on 8/3/2010 (dj). Modified on 8/3/2010 (dj). (Entered: 07/30/2010)
07/30/2010		Set Deadlines/Hearings: Replies due by 8/30/2010. Responses due by 8/23/2010 (dj) (Entered: 08/03/2010)
08/23/2010	<u>28</u>	RESPONSE in Opposition re: <u>21</u> Rule 56.1 Statement. Document filed by Daniel B. Karron. (mbe) (Entered: 08/31/2010)
08/23/2010	<u>29</u>	MEMORANDUM OF LAW in Opposition re: <u>17</u> MOTION for Summary Judgment. Document filed by Daniel B. Karron. (Attachments: # <u>1</u> part 2)(mbe) (Entered: 08/31/2010)
08/23/2010	<u>30</u>	DECLARATION of D. B. Karron and the exhibits thereto re: <u>17</u> MOTION for Summary Judgment. Document filed by Daniel B. Karron. (mbe) Modified on 5/4/2011 (ae). (Entered: 08/31/2010)
08/23/2010	<u>32</u>	DECLARATION of Deborah A. Dunlevy in Opposition re: <u>17</u> MOTION for Summary Judgment. Document filed by Daniel B. Karron. (mro) (Additional attachment(s) added on 9/29/2010: # <u>1</u> Declaration Part 2, # <u>2</u> Declaration Part 3, # <u>3</u> Declaration Part 4, # <u>4</u> Declaration Part 5, # <u>5</u> Declaration Part 6, # <u>6</u> Declaration Part 7, # <u>7</u> Declaration Part 8, # <u>8</u> Declaration Part 9, # <u>9</u> Declaration Part 10, # <u>10</u> Declaration Part 11) (ad). (Additional attachment(s) added on 9/29/2010: # <u>11</u> Declaration Part 12, # <u>12</u> Declaration Part 13, # <u>13</u> Declaration Part 14, # <u>14</u> Declaration Part 16, # <u>16</u> Declaration Part 16, # <u>17</u> Declaration Part 17, # <u>18</u> Declaration Part 18) (ad). (Additional attachment(s) added on 5/4/2011: # <u>19</u> Exhibit Declaration Part 15, # <u>20</u> Exhibit Declaration Part 19, # <u>21</u> Exhibit Declaration Part 20) (ae). (Entered: 09/09/2010)
09/02/2010	<u>31</u>	ENDORSED LETTER addressed to Judge Naomi Reice Buchwald from D B Karron dated 9/1/2010 re: request that we delay our Digital Supplemental to our Motion Papers in Opposition to Summary Judgment submission to Tuesday, 9/7/2010. ENDORSEMENT: So Ordered. (Signed by Judge P. Kevin Castel on 9/2/2010 - for Judge Buchwald) (jar) (Entered: 09/02/2010)
09/08/2010	<u>33</u>	AFFIRMATION OF SERVICE of DVD containing the following: Judge Buchwald cover letter, Memorandum of Law in opposition to plaintiff's motion for summary judgment, Opposing 56.1 statement of material facts, Declaration of Deborah Anne Dunlevy, Declaration of Eric A. Eisen and Declaration of D. B. Karron served on Michael J. Byars on 9/7/10. Document filed by Daniel B. Karron. (mro) (Entered: 09/13/2010)

09/17/2010	<u>34</u>	REPLY MEMORANDUM OF LAW in Support re: <u>17</u> MOTION for Summary Judgment.. Document filed by United States of America. (Byars, Michael) (Entered: 09/17/2010)
03/07/2011		Minute Entry for proceedings held before Judge Naomi Reice Buchwald: Oral Argument held on 3/7/2011. (mro) (Entered: 03/11/2011)
03/23/2011	<u>35</u>	MEMORANDUM AND ORDER: For the foregoing reasons, the motion (docket no. 17) is granted in part and denied in part. Additionally, based on the Governments statement at oral argument that a finding for the Government on the FCA claims would eliminate the need to address the pending state law claims, we dismiss the remaining state law claims. Within two weeks, the Government shall advise the Court in writing about its proposed course of action regarding its request for civil penalties. If the Government determines not to pursue its claims for additional civil penalties, it shall submit a judgment on notice. (Signed by Judge Naomi Reice Buchwald on 3/22/2011) Copies Mailed By Chambers. (jpo) (Entered: 03/23/2011)
04/01/2011	<u>36</u>	TRANSCRIPT of proceedings held on March 7, 2011 4:10 p.m. before Judge Naomi Reice Buchwald. (ajc) (Entered: 04/01/2011)
04/13/2011	<u>37</u>	JUDGMENT #11,0691 in favor of United States of America against Daniel B. Karron in the amount of \$ 4,042,000.00,less any amount that defendant has paid or will pay in restitution in connection with the case captioned United States v. Daniel B. Karron, S2 076 Cr. 541 (RPP) (S.D.N.Y.), with interest accruing thereafter providedby law, and that plaintiff have execution therefor, and that the state law claims are dismissed. (Signed by Judge Naomi Reice Buchwald on 4/13/11) (Attachments: # <u>1</u> Notice of Right to Appeal)(dt) (Entered: 04/13/2011)
04/19/2011	<u>39</u>	MOTION to Correct the Record. Document filed by Daniel B. Karron.(mbe) (Entered: 04/21/2011)
04/19/2011	<u>40</u>	REQUEST TO PROCEED IN FORMA PAUPERIS ON APPEAL. Document filed by Daniel B. Karron.(rmj) (Entered: 04/22/2011)
04/19/2011	<u>42</u>	NOTICE OF APPEAL from <u>37</u> Judgment. Document filed by Daniel B. Karron. (tp) (Entered: 05/10/2011)
04/19/2011		Appeal Remark as to <u>45</u> Notice of Appeal filed by Daniel B. Karron. NO FEE. IFP GRANTED 5/3/11. (tp) (Entered: 05/10/2011)
04/21/2011	<u>38</u>	Letter addressed to Honorable Naomi R. Buchwald from Daniel B. Karron dated April 19, 2011 re: Appeals. Document filed by Daniel B. Karron.(jnm) (Entered: 04/21/2011)
05/02/2011	<u>41</u>	DECLARATION of Eric A. Eisen in Opposition to Plaintiff's Motion for Summary Judgment. (ae) (Entered: 05/02/2011)
05/03/2011	<u>42</u>	MEMO ENDORSEMENT on re: <u>40</u> Declaration in Support of I.F.P. filed by Daniel B. Karron. ENDORSEMENT: Application granted. So Ordered. (Signed by Judge Naomi Reice Buchwald on 5/3/2011) (jfe) (Entered: 05/03/2011)
05/04/2011	<u>43</u>	VIDEO FILE enclosed on CD. Document filed by Daniel B. Karron. (ae) (Entered: 05/04/2011)
05/05/2011	<u>44</u>	ORDER. It is hereby ORDERED that Dr. Karron's motion to correct the record (docket no. 39) is granted only to the extent described herein and is otherwise denied and the Clerk of the Court need not take any further action to supplement the record. Granting in part and denying in part <u>39</u> Motion to Amend/Correct. (Signed by Judge Naomi Reice Buchwald on 5/5/11) Copies Mailed By Chambers. (rjm) (Entered: 05/05/2011)
05/10/2011		Transmission of Notice of Appeal and Certified Copy of Docket Sheet to US Court of Appeals re: <u>45</u> Notice of Appeal. (tp) (Entered: 05/10/2011)
05/10/2011		Transmission of Notice of Appeal to the District Judge re: <u>45</u> Notice of Appeal. (tp) (Entered: 05/10/2011)